IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3396 of 2002
with
Special Civil Application No.963 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAYANTILAL NARSHI THACKER

Versus

STATE OF GUJARAT

Appearance:
MR CH VORA for Petitioner No. 1-4
Ms.Sonal D. Vyas, Assistant GOVERNMENT PLEADER,
for Respondent No. 1-2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 17/10/2002

ORAL JUDGEMENT

So far as Special Civil Application No.963 of 2002 is concerned, the same is already admitted. So far as Special Civil Application No.3396 of 2002 is concerned, rule returnable today. Learned AGP waives service of rule on behalf of the respondents.

Today, both these matters are disposed of finally with the consent of parties.

The petitioners in these petitions are Government employees, serving with the Government department and they applied for grant of land for residential purpose. Along with the present petitioners, other Government employees were also granted land as per the computer draw held on 21.10.1994. Initially, 89 employees approached this Court by way of Special Civil Application No.3221 of 1998, challenging the Government Resolution dated 8.4.1996. A learned single Judge of this Court (Coram : M.S. Shah, J.) allowed the said Special Civil Application and it is observed as under in paragraphs 6 and 7 :-

> " ... ...
>
> 6. It appears to the Court that in spite of passage of more than two years' time, no concrete steps are taken either by the authorities or by the petitioners for the purpose of solving the aforesaid issue. It is the submission of Mr.Vora for the petitioners that instead of individual petitioners or employees approaching the Government or the Collector for individual parcels of land, it would be much more convenient for the Government and also desirable that the Collector selects an appropriate parcel of land where all the 280 Government employees who were selected at the computer draw can be granted land for housing and that there is no need for inviting fresh applications.
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> Mr.Mankad, learned AGP states that only 21 persons out of the persons who had participated in the computer draw in 1994 have individually applied for the individual plots.
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> 7. Having heard the learned counsel for the parties, it appears to the Court that it would be just and proper to dispose

of this petition with the following directions :-

(i) The Gujarat Housing Board shall, within two months from today, invite applications for allotment of tenements and it will be open to the petitioners and other Government employees also to submit their applications and those employees out of the petitioners and other government employees who submit their applications expressing their willingness for allotment of the plots shall be given priority under the scheme as per the Government Resolution dated 8.4.1996.

(ii) Those Government employees who do not apply in response to the aforesaid scheme of the Gujarat Housing Board shall submit their applications to the Collector, Kutch within three months from today, and the Collector, Kutch, will then submit a proposal to the Government indicating the available lands at and / or near Bhuj which can be considered for allotment for housing to the Government employees. This shall be done within six months from today.

(iii) Upon the Government receiving the proposal from the Collector as aforesaid, the Government shall take appropriate decision within three months from the date of receipt of the proposal from the Collector.

... ..."

Thereafter, some other employees filed a writ petition, being Special Civil Application No.8506 of 1999, and this Court (Coram : M.R. Calla, J.) passed the following order :-

" ... ...

6. In the facts and circumstances of this

case, this Court finds that this petition filed on behalf of the large number of employees and which may affect even more number of employees to the extent of 280, the Govt. may reconsider the question of fixing the price of the land in the instant case in the light of the observations made hereinabove and may decide the rates again in the light of the observations made in this order so as to reduce the price of Rs.900/- per sq. mtr. to a reasonable extent and for that purpose the date on which the decision was taken in favour of the Gujarat Housing Board, i.e. 8th April, 1996 may be considered to be the relevant date because the decision with regard to the petitioners should have been taken in normal course simultaneously to the point of time when the decision was taken for giving the land to the Housing Board. The Govt. shall take up such exercise of reconsideration immediately when the certified copy of this order is produced before the concerned authorities and the concerned authorities shall take a decision at the earliest possible opportunity, but in no case, later than two months from the date the certified copy of this order is produced before them.

7. Learned counsel for the petitioners has submitted that although the requirement of making a deposit in terms of the notice dated 7th October, 1999 was noticed by this Court while passing the order dated 28th October, 1999 and it was ordered that non-deposit of the entire amount of Rs.90,000/- per allottee shall not adversely affect the claim for allotment of the land in question. The petitioners who were even ready at that time to make the initial deposit of Rs.15,000/-, such amount though offered, was not accepted by the Govt. It is, therefore, made clear that the petitioners may even now be asked to make such initial deposit subject to the final decision which the Govt. may take in compliance of this order and the rest of the amount may be charged from the petitioners as per the decision which may be taken now. Such initial deposit of

Rs.15,000/- per allottee may be accepted even now within a period of three weeks from the date the certified copy of this order is produced before the concerned Collector. This Special Civil Applicaiton is accordingly allowed in the terms as aforesaid and the Rule is made absolute to that extent. In the facts and circumstances of this case, the parties are left to bear their own costs. Direct service is permitted.

... ..."

These petitions are filed only for the purpose of fixing the amount towards the price for the allotment of the land in question. So far as the present petitioners are concerned, the rate fixed by the Government is Rs.900/- per sq. metre. The said orders are annexed as Annexures `C' to `F' in the compilation. The present petitioners, therefore, approached this Court, with a prayer that the case of the present petitioners is identical to the one which is disposed of by this Court (Coram : M.R. Calla, J.) on 5.5.2000, i.e., Special Civil Application No.8506 of 1999. It is submitted by Mr.Vora that on the basis of the order passed by this Court in the aforesaid Special Civil Application, the Government has reduced the rate from Rs.900/- per sq. metre to Rs.450/- per sq. metre and, according to him, the possession has already been handed over by taking possession from the Government employees, who have been allotted land from this very survey numbers. It is submitted that since the petitioners had not come to this Court and there is no order of similar type in their favour, the Collector is insisting to pay Rs.900/- per sq. metre and hence, the order in question was passed by the Collector. The learned AGP submitted that in view of the judgment of this Court (Coram : M.R. Calla, J.), other Government employees have already been allotted land by charging Rs.450/- and according to her, since the petitioners had not filed any petition and, there is no order in their favour, the Collector has passed an order, directing the petitioners to pay Rs.900/- per sq. metre.

After hearing both the sides, I am of the opinion that the petitioners cannot be given any different treatment and when from the very piece of land, other Government employees have been given land at the rate of Rs.450/- per sq. metre, the petitioners cannot be discriminated against simply because, they have not approached this Court. In any case, now, they have

approached this Court and, in my view, the State Government is required to give the said benefit to the present petitioners, which is given to the other employees on the basis of the order dated 5.5.2002, passed by this Court (Coram : M.R. Calla, J.) in Special Civil Application No.8506 of 1999 and the interim relief granted by the learned single Judge (Coram : M.S. Shah, J.) by order dated 7th May, 2002, directing the Collector that in case each of the petitioners deposits a sum of Rs.45,000/-, the land in question may not be allotted to any other person until further orders. Mr.Vora for the petitioners submitted that, except petitioner No.2 of Special Civil Application No.3396 of 2002, rest of the petitioners have already deposited Rs.45,000/- each, with the Collector. Under these circumstances, while fixing appropriate purchase price, as indicated above, whatever amount deposited by the petitioners may be given set off. So far as petitioner No.2 of Special Civil Application No.3396 of 2002 is concerned, if his plot is already allotted to any other allottee in view of the fact that he has not deposited Rs.45,000/-, then, naturally, his case will be required to be decided separately by the State Government and if the plot is allotted to any one else, naturally, he will not have any claim.

With these observations, the petitions are partly allowed. The Revenue Department of the State Government is directed to take a fresh decision in connection with fixing the purchase price for the purpose of allotment of land to the present petitioners and on the basis of the decision taken in connection with other employees on the basis of the order passed by this Court in Special Civil Application No.8506 of 1999, fresh decision in the instant also also may be taken accordingly for the purpose of fixing the price. The State Government may take appropriate decision expeditiously and preferably by 31st March, 2003.

The petitions are accordingly partly allowed. Rule is made absolute with no order as to costs.

(P.B. Majmudar, J.)

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(apj)